

**Public Version**

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE  
TRADE POLICY STAFF COMMITTEE**

In the Matter:  
Imports of Certain Steel

BUSINESS CONFIDENTIAL  
INFORMATION DELETED FROM PAGE 3

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**CARBON AND ALLOY WELDED TUBULAR PRODUCTS OTHER THAN  
OIL COUNTRY TUBULAR GOODS (CATEGORY 5)**

**On Behalf of Rothrist Tube (Switzerland) Inc.:  
Response To Written Comments on  
What Action the President Should Take Under Section 203(a):  
Request For Exclusions**

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January 15, 2002

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## I. INTRODUCTION

On behalf of Rothrist Tube (Switzerland) Inc. (Rothrist), we submit these comments pursuant to the Office of the United States Trade Representative, Trade Policy Staff Committee (TPSC) notice, *Public Comments on Potential Action Under Section 203 of the Trade Act of 1974 With Regard to Imports of Certain Steel*.<sup>1</sup> In particular, these comments address issues raised by members of the TPSC during the January 9, 2001, 1 pm meetings at which Rothrist presented information supporting the exclusion of certain precision “drawn over mandrel” (DOM) steel tubes from any remedy the President may impose under Section 203(a) of the Trade Act of 1974 on imports of carbon and alloy welded tubular products (other than oil country tubular goods) (WTP).

## II. EXCLUSION OF PRODUCTS FROM REMEDY

### A. Short Descriptions of the Products To Be Excluded

The President should exclude from any remedy that may be imposed each of the following products:

- **Tubes for assembled camshafts:** HTS subheadings 7306.30.5015 and 7306.50.5030;
- **Tubes for swaged or straight propshafts (aka driveshafts):** HTS subheadings 7306.30.1000, 7306.30.5015, 7306.50.1000 and 7306.50.5030;
- **Tubes for shock absorbers:** HTS subheading 7306.30.5015;
- **Tubes for gas springs:** HTS subheadings 7306.30.1000 and 7306.30.5015;
- **Tubes for steering cylinders:** HTS subheading 7306.30.5015;
- **Tubes for half shafts:** HTS subheadings 7306.30.5015 and 7306.50.5030; and
- **Other precision DOM steel tubes:** HTS subheadings 7306.30.5015, 7306.50.5030 and 7306.60.

Each of the welded steel tubes listed above are DOM, an advanced process necessary to produce specialty tubes.<sup>2</sup>

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<sup>1</sup> 66 Fed. Reg. 54321 (October 26, 2001), supplemented at 66 Fed. Reg. 59599 (November 26, 2001) and 66 Fed. Reg. 67349 (December 28, 2001).

<sup>2</sup> Chemical, physical, mechanical and specific production details regarding each of these tubes are contained ... continued

### III. BASIS FOR EXCLUSION

#### A. Rothrist Produces (Unique) High-Quality DOM Welded Steel Tubes Where High-Performance, Reliability and Durability Are Required

The tubes produced by Rothrist are all custom-made to specifications, requirements and standards created by the U.S. automobile industry and other customers. Although these tubes may be similar in size to other tubes and classified under the same harmonized tariff schedule and DIN standards, other products cannot be substituted for them. GM confirms this in a letter in which it states that: “GM assembled camshafts were developed with Rothrist Tube... the only known source to meet the engineering and quality specifications required.”<sup>3</sup>

Rothrist’s tubes also are used in commercial vehicles where high-performance and durability are essential, *e.g.*, in light trucks and sport utility vehicles that are purchased by the U.S. military for non-combative purposes. This reputation for quality and precision have earned Rothrist a high standing in the industry.<sup>4</sup> In short, Rothrist cannot over-emphasize the unique quality aspects of its tubes and the inability of the U.S. industry participating in this investigation to produce substitute or like products.<sup>5</sup>

#### B. Rothrist Is GM Bay City Plant’s Only Approved Camshaft Tube Supplier

“Rothrist ... is the only approved supplier” of camshaft tubes for General Motors Powertrain Group (GMPT).<sup>6</sup> According to Mr. Steve Vaughn, Senior Buyer of GMPT, “GM is

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in Rothrist’s January 4, 2002, November 20, 2001 and November 13, 2001 submissions to the TPSC (TPSC Exclusion Request Nos. X-162 and X-23, respectively). Rothrist also submitted exclusion requests for these specific products on October 17 in response to the ITC’s Exclusion Request Data Sheet, as well as in an October 29 pre-hearing brief on remedy to the ITC. A public version of Rothrist’s pre-hearing brief, including relevant Exhibits, was submitted to the TPSC via e-mail on October 30, 2001.

<sup>3</sup> General Motors Powertrain Group December 20, 2001 Letter to the TPSC (GM Letter) supporting the exclusion of certain tubes produced by Rothrist at 1 (emphasis added) (Exhibit 1).

<sup>4</sup> Rothrist has been: (i) ISO 9001 certified since 1992; (ii) QS 9000 and VDA 6.1 certified since 1998; (iii) Ford Q1 certified since 1988; and (iv) awarded GM QSP supplier of the year.

<sup>5</sup> For a detailed discussion on the unique aspects of Rothrist’s tubes, see *Written Comments On What Action The President Should Take Under Section 203(a)* submitted to the TPSC by Rothrist (January 4, 2001) and *Comments Submitted by the Government of Switzerland* confirming the unique aspects of Rothrist’s products, TPSC Exclusion Request No. X-044 (November 13, 2001).

<sup>6</sup> See GM Letter at 1 (emphasis added)(Exhibit 1).

unable ... to find U.S. producers of these tubes because the U.S. tube industry cannot meet our product specifications required for camshaft tubes.”<sup>7</sup> Mr. Vaugh also predicts that “any remedy imposed on Rothrist tubes will adversely impact the production of ... approximately 1.2 million engines and vehicles.”<sup>8</sup> In sum, GM depends on the quality tubes that only Rothrist is able to manufacture and supply.

**C. Rothrist’s Tube Exports Are Negligible And Are Priced Much Higher Than The Most Similar U.S.-Produced Tubes**

Rothrist’s combined exports of all tubular products to the U.S. market consistently account for less than 0.25 percent of total U.S. imports. For example, in 2000, an automotive industry boom year, Rothrist exported a mere [ ] short tons, compared with total U.S. imports of 2,627,208 short tons, or 1,420,685 short tons excluding Canada and Mexico.

Also, Rothrist’s experience indicates that its tube prices are higher than prices for similar U.S. produced tubes.<sup>9</sup> The small quantity and high prices of its exports alone demonstrate that its products are specialty niche products. In any event, Rothrist is the only producer seeking exclusion of these specialty products. It has not contributed to any injury of the U.S. tubular industry and could not do so in the future.

**D. The U.S. WTP Industry Does Not Produce Like Or Directly Competitive Products**

Rothrist is not aware of any significant U.S. industry producing like or directly competitive products.<sup>10</sup> Moreover, as one would expect, given the facts presented by Rothrist, the WTP producers’ comments to the TPSC opposing Rothrist’s exclusion requests contain no factual evidence supporting their opposition to Rothrist’s exclusion requests.

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<sup>7</sup> *Id.* at 1 (emphasis added).

<sup>8</sup> *Id.* at 2 (emphasis added).

<sup>9</sup> *See, e.g., id.* at 1 (“it is crucial to our operations that the tubes we use be of superior quality and our purchasing decisions are not solely based on price.”)

<sup>10</sup> *See also Written Comments On What Action The President Should Take Under Section 203(a)*, submitted to the TPSC by Rothrist (January 4, 2001), discussing in detail the comments submitted by U.S. tubular producers and attaching a summary of products produced by the U.S. industry.

### **E. Excluding Rothrist's Products From Any Remedy Imposed Has No WTO Implications**

Rothrist requests that each of its products be excluded from any safeguard measures that may be imposed. The basis for the exclusion is that Rothrist's products are unique niche products required by the U.S. automotive industry and not produced by the U.S. industry participating in this case. The President can and previously has granted exclusions for products meeting these criteria.<sup>11</sup> Such exclusions also comply with WTO provisions. First, the exclusions would be granted on an MFN basis, *i.e.*, the exclusions would apply to all producers whose products meet the established criteria. Second, the WTO Safeguards Agreement permits Members to tailor safeguard measures to specific products and specific conditions of competition within product markets.<sup>12</sup>

## **IV. PROPOSED EXCLUSION LANGUAGE**

### **A. Rothrist's Understands The Need For Precision**

Rothrist understands that any exclusion request granted by the President must be crafted carefully to limit the exclusion to the specific product at issue. An exclusion should not become a loophole for producers of similar or like products through which they can escape from any remedy that may be imposed. Thus, the exclusion must be precise. It must be a product-specific exclusion that encompasses the unique aspects of the product and ensures that only that specific product for a very specific application is excluded. We have attached at Exhibit 2 draft language for each of Rothrist's tubular products that we believe satisfies these criteria. In addition, we have attached at Exhibit 3 a sample document for certifying that the product in question is imported pursuant to a U.S. manufacturer's order for a very specific application.

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<sup>11</sup> See, *e.g.*, *Action Under Section 203 of the Trade Act of 1974 Concerning Steel Wire Rod*, Presidential Proclamation 7273 (February 16, 2000) where various specialty wire rod products were excluded from the remedy when specific requirements were met. See U.S. Notes to Chapter 99 of the Harmonized Tariff Schedule of the United States (2001) at 99-41 through 99-43.

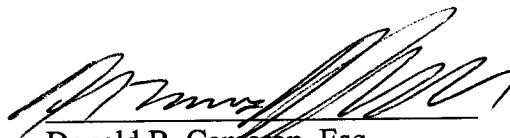
<sup>12</sup> Article 5 of the Safeguards Agreement requires Members to consider certain conditions and "special factors which may have affected or may be affecting the trade in the product."

## V. CONCLUSION

Rothrist is requesting that the President exclude from any remedy only those specialty tubes produced by Rothrist which are not made by the U.S. industry and which are required by the U.S. automotive industry. Rothrist is one of the only suppliers to the U.S. market of the tubes that it produces for the applications described above.

Rothrist's exports to the U.S. market are driven exclusively by U.S. automotive demand for high quality, not lower prices. Therefore, Rothrist's high-quality tubes neither injure nor threaten with injury the U.S. tube industry. In fact, Rothrist's tubes benefit the U.S. automotive sector, which, due to Rothrist's tubes, is able to offer U.S. consumers a higher-quality, lower-cost and often safer product. Any restriction of Rothrist's exports to the United States ultimately would adversely impact U.S. consumers, delay production of certain U.S. automobiles and hinder the U.S. automotive industry from developing more efficient and technologically advanced products. Accordingly, we respectfully request that the President exclude the above-described products from any remedy imposed.

Respectfully submitted,



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Julie C. Mendoza, Esq.  
David S. Christy, Jr., Esq.  
Marcus A. Kraker, Trade Analyst  
**Kaye Scholer LLP**  
*Counsel to Rothrist Tube  
(Switzerland) Inc.*

# Exhibit 1





777 Joslyn Ave.  
Pontiac, MI 48340-2925  
248 857-1338  
248 857-0059 fax

December 20, 2001

Ms. Gloria Blue  
Executive Secretary  
Trade Policy Staff Committee  
Office of the US Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20505

**Subject: Exclusion of Certain Tubes Produced by Rothrist Tube From Any Relief  
Imposed by the President Under Section 203 of the Trade Act of 1974**

Dear Ms. Blue:

I am the Senior Buyer of General Motors Powertrain Group (GMPT) that manufactures assembled camshafts for engines used in several General Motors (GM) vehicles including Chevrolet, Pontiac, Oldsmobile and Buick. A critical component used in the manufacture of the assembled camshafts is high precision special alloyed welded tubular steel (DOM) produced by Rothrist Tube (Switzerland) Inc.

Accordingly, GM respectfully request the exclusion of certain tubes produced by Rothrist Tube from any remedy imposed on imports of carbon and alloy welded tubular products (other than oil country tubular goods). We only recently became aware of this issue through our supplier, Rothrist, who informed us that the welded DOM precision steel tube we use to manufacture our assembled camshafts were covered by the section 201 of the investigation. We also learned that imports of these tubes could be restricted or subject to a substantially higher duty if the President decides to impose measures to protect the U.S. tube and pipe industry.

The GM assembled camshafts were developed with Rothrist Tube and was the only known source to meet the engineering and quality specifications required. GM has been purchasing tubes from Rothrist since 1988. It is crucial to our operations that the tubes we use be of superior quality and our purchasing decisions are not solely based on price. This provides GM with a lightweight high quality alternative to cast iron or steel billet camshafts. GM is unable able to find U.S. producers of these tubes because the U.S. tube industry cannot meet our product specifications required for camshaft tubes. Moreover, Rothrist Tube (Switzerland) Inc., Switzerland is the only approved supplier.

The product in question is:

Product description:

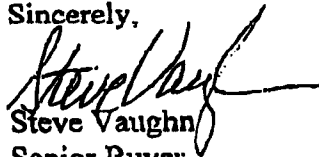
- Welded drawn over mandrel precision steel tube
- Material Specification: DIN 2393C
- Diameter: between 20 mm and 30 mm
- Wall thickness: between 2.0 mm and 5.0 mm

Any remedy imposed on Rothrist tubes will adversely impact the production of assembled camshafts in the GM Bay City, Michigan plant and ultimately the production of approximately 1.2 million engines and vehicles.

Therefore, GM respectfully requests that the President exclude the tubes produced by Rothrist and described above from any remedy.

Thank you for your kind consideration.

Sincerely,

  
Steve Vaughn  
Senior Buyer

cc. Ms. Shirley Zebroski, GM Corp, Washington D.C.  
Mr. Peter Zubrin, GM Corp, Detroit, MI.

## **Exhibit 2**

## Harmonized Tariff Schedule of the United States

For the purpose of subheadings 7306.30.1000 and 7306.30.5015 and 7306.50.1000 and 7306.50.5030 and 7306.60,<sup>1</sup> the following welded drawn over mandrel (DOM) precision steel tubes are excluded from such subheadings, and no entries of such products shall be permitted or included therein or counted toward the quantities specified for any quota period:

### (a) Tubes for assembled camshafts

Imported pursuant to a purchase order from an automotive assembled camshaft manufacturer in the United States for high quality tubes measuring **22.22 mm** or more but not more than **31.00 mm** in outside diameter and **3.00 mm** or more but not more than **5.00 mm** in wall thickness and having an outside diameter tolerance of no more than **0.10 mm** and having a wall thickness variation of no more than **3.0 %** and having a partial decarburization of not more than **0.10 mm** in depth, and produced according to:

St –steel family according to DIN 2393 C:

St –34-3 , St 37-3, St 44-3, St 52-3 with narrowed chemical analysis (These steels are killed by aluminum only)

C max. 0,24%  
Mn max. 1.60 %  
Si max. 0.55%  
Al min. 0.02 %

or Micro-alloyed steels:

- Steels for cold upsetting: 19Mn5 mod., 26Mn5 mod., 34Mn5 mod., 40Mn5 mod.
- High strength steels: Dual phase steels, Trip steels, Ultrahigh-strength hot-rolled steels

### (b) Tubes for drive shafts

Imported pursuant to a purchase order from an automotive drive shaft manufacturer in the United States for high quality tubes measuring **50.00 mm** or more but not more than **110.00 mm** in outside diameter and **1.50 mm** or more but not more than **3.00 mm** in wall thickness and having a outside diameter tolerance between **0.15 mm** and **0.40 mm** and having a wall thickness tolerance of no more than **0.1 mm** and having a partial decarburization of no more than **0.10 mm** in depth, or if the tube is swaged on one side or on both sides:

- the outside diameter of the swaged section(s) are **40.00 mm** or more but not more than **100.00 mm**; and
- the outside diameter tolerance of the swaged section(s) is no more than **0.50mm**;

and produced according to:

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<sup>1</sup> For purposes of this draft, we are using the product specific HTS numbers. Chapter 99 subheadings to be assigned after the remedy, if any, is imposed.

C22 according to DIN 17204 with narrowed chemical analysis:

C max. 0.23%  
Mn max. 0.70%  
Si max. 0.25%  
Al min. 0.02%

or Micro-alloyed steels:

- Steels for cold upsetting: 19Mn5 mod., 26Mn5 mod., 34Mn5 mod., 40Mn5 mod.
- High strength steels: Dual phase steels, Trip steels, Ultrahigh-strength hot-rolled steels

(c) Tubes for **halfshafts**

Imported pursuant to a purchase order from an automotive halfshaft manufacturer in the United States for high quality tubes measuring **26.00 mm** or more but not more than **57.00 mm** in outside diameter and **3.00 mm** or more but not more than **6.00 mm** in wall thickness and having an outside diameter tolerance of no more than **0.20 mm** and having a wall thickness variation of no more than **3.0 %** and having a partial decarburization of no more than **0.05 mm** in depth, and produced according to:

Micro-alloyed steels:

- Steels for cold upsetting: 19Mn5 mod., 26Mn5 mod., 34Mn5 mod., 40Mn5 mod.
- High strength steels: Dual phase steels, Trip steels, ultrahigh-strength hot-rolled Steels

(d) Tubes for **steering systems**

Imported pursuant to a purchase order from an automotive steering systems manufacturer in the United States for high quality tubes for:

- **steering cylinders** measuring **40.00 mm** or more but not more than **60.00 mm** in outside diameter and not more than **3.50 mm** in wall thickness and having an inside diameter tolerance of no more than **0.10 mm** and having a wall thickness tolerance of no more than **3.0 %** and having a partial decarburization of no more than **0.10 mm** in depth and having an inner surface roughness (Rz) of no more than **0.004 mm**; or
- **steering columns** measuring **18.00 mm** or more but not more than **40.00 mm** in outside diameter and **1.00 mm** or more but not more than **3.60 mm** in wall thickness and having an outside diameter tolerance of no more than **0.10 mm** and having a wall thickness tolerance of no more than **3.0 %** and having a partial decarburization of not more than **0.10 mm** in depth;

and produced according to:

St –steel family according to DIN 2393 C:

St –34-3 , St 37-3, St 44-3, St 52-3 with narrowed chemical analysis (These steels are killed by aluminum only)

C max. 0,24%  
Mn max. 1.60 %  
Si max. 0.55%  
Al min. 0.02 %

(e) Tubes for **shock absorbers**

Imported pursuant to a purchase order from an automotive shock absorber manufacturer in the United States for high quality tubes measuring **25.00 mm** or more but not more than **56.00 mm** in outside diameter and **1.00 mm** or more but not more than **3.50 mm** in wall thickness and having an inside diameter tolerance of no more than **0.10 mm** and having a wall thickness tolerance of no more than **0.10 mm** and having a partial decarburization of no more than **0.10 mm** in depth and having an inner surface roughness (Rz) of no more than **0.004 mm**, and produced according to:

St –steel family according to DIN 2393 C:

St –34-3 , St 37-3, St 44-3, St 52-3 with narrowed chemical analysis (These steels are killed by aluminum only)

C max. 0,24%  
Mn max. 1.60 %  
Si max. 0.55%  
Al min. 0.02 %

(f) Tubes for **stabilizers**

Imported pursuant to a purchase order from an automotive tubular stabilizer bars manufacturer in the United States for high quality tubes measuring **17.00 mm** or more but not more than **38.00 mm** in outside diameter and **2.30 mm** or more but not more than **5.40 mm** in wall thickness and having an outside diameter tolerance of no more than **0.20 mm** and having a wall thickness tolerance of no more than **3.0 %** and having a partial decarburization of no more than **0.05 mm** in depth, and produced according to:

Micro-alloyed steels:

- Steels for cold upsetting: 19Mn5 mod., 26Mn5 mod., 34Mn5 mod., 40Mn5 mod.
- High strength steels: Dual phase steels, Trip steels, ultrahigh-strength hot-rolled Steels

(g) Tubes for gas springs

Imported pursuant to a purchase order from a gas springs manufacturer in the United States for high quality tubes measuring **12.00 mm** or more but not more than **30.00 mm** in outside diameter and **1.00 mm** or more but not more than **3.50 mm** in wall thickness and having an inside diameter tolerance **between 0.05 mm and 0.16 mm** and having a wall thickness tolerance of no more than **0.10 mm** and having a partial decarburization of no more than **0.10 mm** in depth and having an inner surface roughness (Rz) of no more than **0.004 mm**, and produced according to:

St –steel family according to DIN 2393 C:

St –34-3 , St 37-3, St 44-3, St 52-3 with narrowed chemical analysis (This steels are killed by aluminum only)

C max. 0,24%  
Mn max. 1.60 %  
Si max. 0.55%  
Al min. 0.02 %

(h) Profiled tubes for telescopic PTO shafts

Imported pursuant to a purchase order from a telescopic power take-off systems manufacturer in the United States for high quality profile tubes measuring **30.00 mm** or more but not more than **70.00 mm** in outside diameter and **2.40 mm** or more but not more than **6.00 mm** in wall thickness and having dimensional tolerances such that a tube pair is telescopic over 2 meter length and having a partial decarburization of no more than **0.10 mm** in depth, and produced according to:

St –steel family according to DIN 2393 C:

St –34-3 , St 37-3, St 44-3, St 52-3 with narrowed chemical analysis (This steels are killed by aluminum only)

C max. 0,24%  
Mn max. 1.60 %  
Si max. 0.55%  
Al min. 0.02 %

## **Exhibit 3**



**Material Certificate**

(for US-Customs)

**We hereby confirm that the following tubes described below are used only for  
[mention the application]**

**Purpose/ Application:** Tubes for [mention the application]

**Dimension (OD x ID x L) in mm:**

**Tolerances:** OD = [tolerance] mm ID = [tolerance] mm Length = [tolerance] mm

**Material-Analysis:**

%x	%x	%x	%x	%x	%x	%x
limit values	limit values	limit values	limit values	limit values	limit values	limit values

**Part-/Drawing No.**

**Supplier:** [Part-No]

**Part-/Drawing No.**

**Customer:** [Part-No]

	<b>Address and Contact of Supplier:</b>	<b>Address and Contact of Customer:</b>
Company Name	Rothrist Tube (Switzerland) Inc.	
Manufacturing Site	Rothrist	
Street	Neue Industriestr. 14	
ZIP-Code	CH-4852	
Country	Switzerland	USA
Phone	++41-62-785 51 11	
Fax	++41-62-785 51 12	
e-mail		
Contact-Person		
	Signature of Supplier / Date  ..... (Name / Title)	Signature of Customer / Date  ..... (Name/Title)